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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
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11 MICHAEL KELVIN ARINWINE, ) NO. ED CV 14-156-CJC (AS)  
12 )  
13 Petitioner, )  
14 ) ORDER OF DISMISSAL  
15 v. )  
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17 E VALENZUELA, Warden, )  
18 )  
19 Respondent. )  
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18 On January 27, 2014, Petitioner filed a Petition for Writ of  
19 Habeas Corpus by a Person in State Custody, pursuant to 28 U.S.C.  
20 § 2254 ("Petition") (Docket Entry No. 1).  
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22 The Petition appears to challenge Petitioner's October 12,  
23 2000 convictions for first degree murder, in violation of  
24 California Penal Code ("P.C.") § 187 (count 1), and willful,  
25 premeditated and deliberate attempted murder, in violation of P.C.  
26 §§ 664/187 (count 2). The jury also found that Petitioner  
27 discharged a firearm causing great bodily harm or death within the  
28 meaning of P.C. §§ 12022.53(d) and 1192.7(c)(8). Petitioner was

1 sentenced to concurrent prison terms of 50 years-to-life on count  
2 1, and life with the possibility of parole on count 2.

3  
4 Petitioner did not identify any prior federal habeas petition  
5 in response to question 12 of the form Petition, but in response to  
6 question 8 of the form Petition, Petitioner appears to reference  
7 the decision of a prior federal habeas petition that was dismissed  
8 by this Court following a consideration of the merits. See  
9 Arinwine v. Kirkland, Case No. ED CV 04-1406-CJC (RC). Thus, the  
10 instant Petition is Petitioner's second or successive attempt to  
11 seek federal habeas review of the convictions he sustained in  
12 October 2000.

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14 The Court must dismiss the present Petition in accordance with  
15 28 U.S.C. § 2244(b) (as amended by the "Antiterrorism and Effective  
16 Death Penalty Act of 1996"). Section 2244(b) requires that a  
17 petitioner seeking to file a "second or successive" habeas petition  
18 first obtain authorization from the court of appeals. See Burton  
19 v. Stewart, 549 U.S. 147, 157 (2007) (where petitioner did not  
20 receive authorization from Court of Appeal before filing second or  
21 successive petition, "the District Court was without jurisdiction  
22 to entertain [the petition]"); Barapind v. Reno, 225 F.3d 1100,  
23 1111 (9th Cir. 2000) ("the prior-appellate-review mechanism set  
24 forth in § 2244(b) requires the permission of the court of appeals  
25 before 'a second or successive habeas application under § 2254' may  
26 be commenced"). A petition need not be repetitive to be "second or  
27 successive," within the meaning of 28 U.S.C. § 2244(b). See, e.g.,  
28 Thompson v. Calderon, 151 F.3d 918, 920-21 (9th Cir. 1998); Calbert

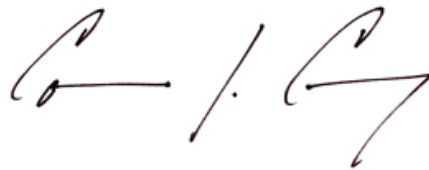
1 v. Marshall, 2008 WL 649798, at \*2-4 (C.D. Cal. Mar. 6, 2008).

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3 To date, the Ninth Circuit has not granted permission to  
4 Petitioner to file a second or successive petition, collaterally  
5 attacking his convictions from October 2000. Because Petitioner  
6 did not obtain authorization from the Ninth Circuit before filing  
7 the instant Petition, this Court cannot entertain the present  
8 Petition. See Burton, 549 U.S. at 157.

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10 For all of the foregoing reasons, the Petition is denied and  
11 dismissed without prejudice.

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13 LET JUDGMENT BE ENTERED ACCORDINGLY.

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15 DATED: February 24, 2014.

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CORMAC J. CARNEY  
UNITED STATES DISTRICT JUDGE

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22 PRESENTED this 24th day of  
23 February 2014, by:

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25 \_\_\_\_\_  
/S/  
ALKA SAGAR  
UNITED STATES MAGISTRATE JUDGE